

5. Pension and Benefits, Capitalization Ratios

a. Ameren's Position

The Ameren Companies propose an adjustment to pension and benefits expense to reflect its budgeted level of 2003 pension and benefits expense. The 2003 budgets were prepared by the Companies' actuarial consultants, Towers Perrin. AG witness Effron proposes an adjustment to the Companies' pension and OPEB expenses based on a 2002 actuarial study. The actuarial study, which predates the 2003 budgets, reflects a lower level of expense than the 2003 budgets. Ameren observes the AG to argue that the Companies' proposed amounts are unsupported, and that there is no presumption in favor of them.

Ameren asserts that the AG has assumed that the historical 2002 expense is a more accurate predictor of expense going forward than the initial forecast prepared by the Companies' actuaries. Ameren states that significant events have occurred, such as the VRP, a cap on medical benefits, and changes in VRP plan value, which render the historical 2002 number inadequate. The Companies urge the Commission to set pension and OPEB expense at the levels projected in the forecast prepared by Towers Perrin, taking these events into account.

Ameren asserts that there is a presumption that the costs submitted by it are reasonable unless shown otherwise. See City of Chicago v. Illinois Commerce Comm'n, 133 Ill. App. 3d 435, 442, 478 N.E.2d 1369, 1374 (1985) ("Once a utility makes a showing of the costs necessary to provide service under its proposed rates, it has established a prima facie case, and the burden then shifts to others to show that the costs incurred by the utility are unreasonable because of inefficiency or bad faith."). The Companies assert that the exception to this rule is limited to costs related to the construction of power plants. See People ex rel. Hartigan v. Illinois Commerce Comm'n, 117 Ill.2d 120, 133, 510 N.E.2d 865, 870 (1987). The Companies maintain that the AG has not overcome the presumption by demonstrating that the Companies' figures are unreasonable.

Mr. Effron also calculates a capitalization rate for pensions and OPEBs based on the percentage of capitalized labor costs to total labor costs included on Schedule C-12. In these revenue requirement calculations, the Companies apply the actual capitalization rates used by the Companies for accounting purposes. The Companies state that these rates conformed with GAAP. Those capitalization rates include other factors that are not included in the data on Schedule C-12, from which Mr. Effron developed his proposed rate. Ameren asserts that Mr. Opich did not testify that the capitalization ratios for pension costs proposed by the AG would be appropriate under GAAP for the relevant time period, and the AG's witness, an accountant, did not offer such testimony.

The AG also accuses the Companies of inventing a “test quarter” in violation of the test year rule. The AG complains that the alleged “test quarter” did not allow sufficient time to measure conditions to be used in determining rates. The Companies assert that their methodology was reasonable, and contend that no evidence suggests that it was not.

b. AG’s Position

The AG recommends disregarding the pension and OPEB expense figures offered by CIPS and UE because they have offered nothing to justify or support the reasonableness of those figures. The figures presented by CIPS and UE represent an increase in pension and OPEB expense from the amounts in Ameren’s 2002 actuarial report but, according to the AG, are based on unsupported conclusions. The AG calculates that disregarding these figures and the increase they represent would reduce operations and maintenance expense for CIPS by \$1,444,000 and for UE by \$309,000.

Under the aforementioned Hartigan decision, the AG asserts that the mere presentation of costs by a utility in a rate case before the Commission does not constitute a presumption that those costs are reasonable. The AG notes that the Hartigan court concluded that “the Commission is an investigator and regulator of the utilities Requiring intervenors to establish unreasonableness is therefore no substitute for requiring proof of reasonableness.” (Hartigan at 871) The AG asserts that neither it nor Staff should be required to prove that these expense amounts are unreasonable just because the Companies request them, and argues that the Companies had ample opportunity to support the pension and OPEB expense figures filed in their direct case. Consequently, the AG contends that the increase in operations and maintenance expense that those pension and OPEB figures represent should be disallowed.

CIPS’ and UE’s pension and OPEB figures for the test year, the AG complains, are not based on anything externally verifiable, such as an actuarial study. Instead, the AG continues, they are based on the Companies’ estimate of their 2003 budget, which itself is based on forecasts. The AG states that the calculations underlying the 2003 pension and OPEB expenses were not explained, and contends that the results of the calculations are speculative.

Since, in the AG’s opinion, Ameren has not produced any support or justification to demonstrate the reasonableness of the pension and OPEB figures it has offered in these rate cases, the AG recommends that the Commission adopt the last reliable set of pension and OPEB expense figures, those from the Companies’ 2002 actuarial study.

Furthermore, the AG claims that Ameren proposes to capitalize a far lower amount of pension expense than labor expense. The AG asserts that this lower capitalization rate for pension is inappropriate, because pension and labor are very similar expenses: both are employee compensation. Consequently, absent some

rational explanation, the AG argues that pension and labor should utilize similar capitalization ratios.

The AG contends that the difference between the pension and labor capitalization rates presented by CIPS and UE was not small. For UE, the labor capitalization ratio was nearly ten times the pension ratio; for CIPS, it was more than 100 times the pension ratio. The AG asserts that the Companies did not explain why there was such a large difference between the pension and labor capitalization ratios.

The AG states that the Companies do agree that the 0.25 capitalization ratio it uses for pensions was not the only rate that could be appropriate under GAAP. The AG argues that since CIPS and UE do not offer any explanation why the labor capitalization ratios are so much greater than the pension capitalization ratios, a more reasonable approach to determining the appropriate capitalization ratios is necessary. The AG's witness suggests calculating the capitalization ratio used for labor and using it as a proxy for the capitalization ratio to be used for pension and OPEB. The AG claims that this calculation methodology ensures the capitalization ratios are grounded in each company's actual costs rather than being based on forecasts and projections.

The AG is also troubled by the Companies' explanation that the pension capitalization ratio was derived by tying it to quarterly forecasts of labor capitalization and labor costs. The AG believes this methodology is not appropriate because it calculates capitalization ratios for each quarter of a given year. The AG asserts that calculating quarterly expenses in this manner introduced the concept of a "test quarter" which was not contemplated within the Commission's test year rule, 83 Ill. Adm. Code 285.150. According to the AG, expenses calculated quarterly represented too narrow a slice of the conditions under which the companies operated to be useful in determining rates.

c. Commission Conclusion

With regard to Ameren's use of 2003 budget figures to adjust the test year pension and benefits expenses for CIPS and UE, the Commission is not convinced of the appropriateness of the adjustments. The Commission's rules for pro forma adjustment to a historical test year require that any adjustments be reasonably certain to occur and the amount of change must be determinable. Neither is true of Ameren's proposal to use of the 2003 budget figures. Therefore, the 2003 budget figures are not proper. Accordingly, the figures based on the 2002 actuarial report, and the resulting adjustment noted by the AG, are adopted.

As for the capitalization rate, the Commission accepts Ameren's capitalization rate, rather than the AG's proposed rate. The AG fails to convince the Commission that the capitalization rate was improperly calculated by the Companies. Furthermore, even if the Companies admitted that the rate they proposed is not the only GAAP-compliant rate, the AG has not offered convincing reasons that pension and labor costs are so similar as to require linking the rates among categories.

Also, the Commission notes that the AG seems to have confused the use of quarterly forecasts to calculate a test year figure with the calculation of a "test quarter." To the extent that forecasts are used in determining a test year amount, the Commission is not troubled that the forecast used is for a period other than one year.